

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CATHOLIC SOCIAL SERVICES,
INC., IMMIGRATION PROGRAM,
et al.,

Plaintiffs,

v.

JEH JOHNSON, Secretary of
Department of Homeland
Security, et al.,

Defendants.

No. CIV. S-86-1343 LKK/JFM

ORDER

By order filed August 26, 2013, defendants were ordered to pay the Special Master \$5,750.00 for outstanding invoices representing 92 appeals and "reasonable fees and costs" incurred by the Special Master in securing that order. Order filed August 26, 2013 (ECF No. 726). On July 8, 2014, the Special Master filed a request for reasonable attorney's fees in the amount of \$26,475 (ECF No. 727). On July 22, 2014, the court granted the request and entered an order directing defendants to pay the Special Master reasonable attorney's fees in the amount of

1 \$26,475 (ECF No. 729). On July 24, 2014, defendants filed a
2 response to the Special Master's request and a request for
3 reconsideration of the court's July 22, 2014 order (ECF No. 730).
4 By order filed July 25, 2014, the Special Master was granted ten
5 days to file a response to defendants' request for
6 reconsideration (ECF No. 731). On August 1, 2014, the Special
7 Master filed his response (ECF No. 732).

8 The dispute at bar stems from defendants' failure to pay
9 their share of the cost of 92 appeals adjudicated by the Special
10 Master pursuant to the settlement agreement in this case. The
11 settlement agreement in this case makes specific provision for
12 the Special Master's compensation for adjudicating such appeals.
13 See Settlement Agreement at ¶ 9. The Special Master and
14 defendants are in agreement that said provision does not govern
15 the instant dispute.

16 The court has already determined that the Special Master is
17 entitled to reasonable fees and costs associated with obtaining
18 the August 26, 2013 order. See Order filed August 26, 2013 (ECF
19 No. 726). Defendants concede that the Special Master is entitled
20 to a reasonable fee. Defs.' Resp. (ECF No. 730) at 9.
21 Defendants do not object to the hours spent by the Special Master
22 on this dispute. See id. at 7. The sole dispute is what hourly
23 rate is proper.

24 The Special Master seeks compensation at a rate of \$500 per
25 hour, which he represents is "far below his normal market rate."
26 Special Master's Resp. (ECF No. 732) at 1. Defendants contend he
27 should be compensated at the statutory rate provided in the Equal
28 Access to Justice Act, 8 U.S.C. § 2412(d) (EAJA), which they

1 contend is "applied in most immigration related fee awards."
2 Defs. Resp. (ECF No. 730) at 3. The Special Master argues that
3 the court's authority to award fees arises its' "inherent power
4 to administer settlement between the parties" pursuant to Fed.
5 Civ. P. 53 and the dispute at bar does not fall within the ambit
6 of EAJA.

7 The court agrees that the authority to award attorneys' fees
8 to the Special Master in the present dispute arises from Rule 53.
9 In particular, Rule 53(g)(1) provides that

10 Before or after judgment, the court must fix
11 the master's compensation on the basis and
12 terms stated in the appointing order, but the
13 court may set a new basis and terms after
14 giving notice and an opportunity to be heard.

15 Fed. R. Civ. P. 53(g)(1).

16 The dispute at bar requires an additional basis for
17 compensating the Special Master, and the parties have been given
18 notice and an opportunity to be heard on the matter. As noted
19 above, the settlement agreement does not cover hourly rates for
20 the Special Master in the circumstance at bar. The court must,
21 therefore, determine a reasonable hourly rate for this matter.
22 In making this determination, the court takes its guidance from
23 the requirement for fee awards under 42 U.S.C. § 1988 that the
24 reasonable hourly rate be "calculated according to the prevailing
25 market rates in the relevant community." Blum v. Stenson, 465
26 U.S. 886, 895 (1984). Here, the relevant community is the
27 community of Special Masters who serve this court. Currently,
28 this court has one Special Master who is compensated at an hourly
rate. In Coleman v. Brown, 90-0520 LKK/DAD, the Special Master

1 is compensated at an hourly rate of \$260.00 hour.¹ The court
2 finds that \$260.00 per hour is a reasonable hourly rate for Mr.
3 Boswell's work on the instant fee petition.


4 There being no dispute over the number of hours claimed by
5 the Special Master, which total 61.45, defendants will be ordered
6 to pay the Special Master reasonable fees associated with
7 obtaining the August 26, 2013 order and this order in the amount
8 of \$15,977.00.

9 In accordance with the above, IT IS HEREBY ORDERED that:

10 1. Defendants' July 24, 2014 motion for reconsideration of
11 this court's July 22, 2014 order is granted in part;

12 2. Defendants are ordered to pay the Special Master
13 reasonable fees associated with obtaining the August 26, 2013
14 order and this order in the amount of \$15,977.00.

15 DATED: August 28, 2014.

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19 LAWRENCE K. KARLTON
20 SENIOR JUDGE
21 UNITED STATES DISTRICT COURT
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27 ¹ The services of the Special Master in Valdivia v. Brown, No. 94-0671 ended
28 in 2013, when that case was terminated. Prior to termination, the Special
Master in Valdivia was compensated at an hourly rate of \$200.00 per hour. See
ECF No. 1858-1.